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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEPHEN R.F. KERN, JR.,

Plaintiff,

v.

STROUD, *et al.*,

Defendants.

Case No. 2:13-cv-02227-RFB-NJK

**MOTION FOR EXTENSION OF
TIME TO FILE MOTIONS FOR
SUMMARY JUDGMENT**

(SECOND REQUEST)

Defendants Dwight Neven, Harold Wickham, Jerry Howell, William Kuloloia, and Jason Henry, by and through counsel, ADAM PAUL LAXALT, Nevada Attorney General, and ERIC N. TRAN, Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby submit this Motion for Extension of Time to File Motions for Summary Judgment (Second Request).

DATED this 18th day of September, 2015.

Respectfully submitted,

ADAM PAUL LAXALT
Nevada Attorney General

By: /s/ Eric N. Tran
ERIC N. TRAN
Deputy Attorney General
Attorneys for Defendants

MEMORANDUM OF POINTS AND AUTHORITIES

This is a civil rights action brought by Plaintiff Stephen R.F. Kern, Jr., an inmate in the custody of the Nevada Department of Corrections ("NDOC"), against various NDOC employees alleging deprivations of his Eighth Amendment rights pursuant to 42 U.S.C. § 1983.

On April 22, 2015, this Court issued a Scheduling Order stating that Motions for Summary Judgment must be filed and served by August 20, 2015. Dkt. # 32. On August 20, 2015, this Court extended the deadline to file motions for summary judgment to September 21, 2015. Dkt. # 43.

Defendants' counsel has been working diligently to complete a motion for summary judgment by the September 21, 2015 deadline. However, as stated in Defendants' previous motion for extension of time, three Senior Deputy Attorneys General recently left the Office of the Attorney General. As a result of these recent departures, Defendants' counsel was assigned to take over a significant number of the departing Senior Deputy Attorneys' General active cases. While the Office of the Attorney General has hired two additional Deputy Attorneys General as of today's date, these new Deputy Attorneys General have not had an opportunity to become familiar with the cases sufficient to assume the day to day responsibilities of these cases. As such, Defendants' counsel has continued to assume the responsibility of the majority of cases left by the departing Senior Deputy Attorneys General.

In addition, Defendants' counsel's dispositive motions calendar in other cases has affected Defendants' counsel's ability to file a motion for summary judgment in this case by the September 21, 2015 deadline. For example, Defendants' counsel had a Motion for Summary Judgment in *Clemons v. Williams*, 13-cv-00093-RFB-NJK due on September 14, 2015; an Opposition to Plaintiff's Motion for Summary Judgment in *Johnson v. Little*, 14-cv-00649-RFB-VCF due on September 10, 2015; a Motion for Summary Judgment in *Campbell v. Cox*, 13-cv-02303-JAD-NJK due on August 31, 2015; a Reply in Support of a Motion for Summary Judgment in *Woods v. Brown*, 13-cv-01029-APG-NJK that was due on September 8, 2015; a Motion for Summary Judgment in *Richard v. Cox*, 2:12-cv-1236-GMN-CWH that

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1 was due on September 14, 2015; and a Motion for Summary Judgment in *Johnson v. Little*,
2 14-cv-00649-RFB-VCF, due on September 21, 2015.

3 Further, Defendants' counsel has been out of the office from September 15, 2015
4 through September 18, 2015 on a mandatory four day trial training for the Office of the
5 Attorney General. Defendants' counsel will also be out of town on a family matter from
6 September 19, 2015 to September 21, 2015.

7 These events, coupled with the fact that Defendants' counsel just recently fully
8 recovered from his back injury, have significantly impacted Defendants' counsel's ability to file
9 a motion for summary judgment by the September 21, 2015, deadline. As such, Defendants
10 request an additional 30 days up to and until October 21, 2015, to file a motion for summary
11 judgment.

12 FRCP 6 (b)(1) states that "[w]hen an act may or must be done within a specified time,
13 the court may, for good cause, extend the time . . . if a request is made, before the original
14 time or its extension expires."

15 Based on the foregoing, Defendants request an additional 30-day extension of time
16 from the present deadline up to October 21, 2015, to file a motion for summary judgment.

17 DATED this 18th day of September, 2015.

18
19 Respectfully submitted

20 ADAM PAUL LAXALT
21 Nevada Attorney General

22 By: /s/ Eric Tran
23 ERIC N. TRAN
24 Deputy Attorney General
25 *Attorneys for Defendants*

26 IT IS SO ORDERED:

27
28 

26 RICHARD F. BOULWARE, II
27 United States District Judge

28 DATED this 22nd day of September, 2015.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General and that on the 18th day of September, 2015, I served the foregoing **MOTION FOR EXTENSION OF TIME TO FILE MOTIONS FOR SUMMARY JUDGMENT (SECOND REQUEST)**, by causing a true and correct copy thereof to be filed with the Clerk of the Court using the electronic filing system and by causing a true and correct copy thereof to be delivered to the Department of General Services, for mailing at Las Vegas, Nevada, addressed to the following:

Stephen R.F. Kern, Jr., #66648
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301
Plaintiff, *Pro Se*

/s/ Diane Q. Resch
An employee of:
STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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